REMARKS

This Amendment is in response to the Office action dated November 23, 2007. Claims 1-5 have been amended in order to more clearly distinguish the invention from the prior art, and claims 11-20 have been cancelled. New claims 21 and 22 have been added. No new matter has been added by way of this Amendment.

The Examiner has rejected claims 1 and 2 under 35 USC 102(e) as being anticipated by Deaton et al. (USP 6,334,108). The Examiner has also rejected claims 3, 4 and 11-14 under 35 USC 103(a) as being unpatentable over Deaton in view of Klayh (US 2003/0050831). The Examiner has also rejected claims 5-7 and 15-17 under 35 USC 103(a) as being unpatentable over Deaton on view of Klayh as applied to claims 3 and 13, in further view of Harris et al. (USP 6,014,635). The Examiner has also rejected claims 8, 9, 18 and 19 under 35 USC 103(a) as being unpatentable over Deaton on view of Klayh as applied to claims 3 and 13, in further view of Official Notice. The Examiner has also rejected claims 10 and 20 under 35 USC 103(a) as being unpatentable over Deaton on view of Klayh as applied to claims 3 and 13, in further view of Blagg et al. (USP 7,076,465).

Applicant respectfully disagrees with the interpretation of the references as they allegedly apply to the Applicant's claims as explained herein. Applicant has amended the claims as explained in order to more clearly distinguish from the references cited.

The present invention is a reward point system that utilizes the pre-existing infrastructure of a typical card network such as a credit card network. A user will make a purchase at a merchant of a product using a token such as a credit card. The merchant

6

contacts the acquiring bank with which it has contracted for credit card network services, and as known in the art, will get an approval or decline message after the acquiring bank contacts the issuing bank of the credit card used by the purchaser. Assuming that the purchase transaction is approved, the user is awarded reward points from the merchant based on the amount of the purchase (e.g. 100 points for a $100 purchase). A central server computer resides on or otherwise interacts with the card network and tracks the transaction between the merchant, the acquiring bank, and the issuing bank. A reward account is maintained on the central server on behalf of the merchant and the user, and the number of reward points in the user's account for that merchant is increased accordingly. The user may redeem the reward points earned from the transaction with the merchant at a later time, or may redeem the points with another merchant on the card network, or may aggregate those reward points with those of other merchants into a central exchange account, and then redeem the aggregated points for goods or services from any approved merchant on the network, depending on the configuration of the system.

Claim 1, as amended, therefore recites a method of operating a reward points system in conjunction with a card network, with the card network comprising at least one issuing bank for issuing a card to a user and at least one acquiring bank for collecting payment from the issuing bank on behalf of a merchant and paying the merchant. A reward point account database is established in a central reward server operating in association with the card network. The central reward server enables a plurality of **independently operating merchants** to each have a plurality of **individual user reward point accounts** stored in the reward point account database and associated with the

independently operating merchant. To utilize the system, a user
executes a purchase transaction with one of the transacting
merchants (from the group of independently operating merchants)
by presenting to the transacting merchant a card for payment of
the transaction. The transacting merchant then requests an
acquiring bank to obtain approval of the purchase transaction
from an issuing bank. The transacting merchant instructs the
central reward server to add reward points to a user reward
point account associated with the transacting merchant and the
user. Thus, this claimed system enables any number of
independent merchants to establish reward point accounts for
their customers using the infrastructure of the card network,
without having to establish their own proprietary reward system
as in the prior art. The central reward server can track reward
point accounts for numerous users at numerous merchants as
independent accounts, thus providing brand distinction and
loyalty. As a result, each participating merchant is provided
with a reward system managed by an independent entity using
selective collaboration, allowing the merchant to maintain brand
identification and name recognition.

This is not the system that is described in Deaton. Deaton's
system provides targeted marketing to customers utilizing credit
card account codes, for example, without having to use a
marketing card (Deaton col. 4 lines 51-55). Deaton also provide
credit verification on a local basis. In particular, Deaton
provides a system in which an *individual store* has a local
customer database of customer records, each record having credit
verification data and other transactional data (Deaton col. 5
lines 14-22). Deaton uses a *local customer database* for each
store for credit functions as well as to perform "targeted

marketing functions based upon the customer's prior shopping history" (Deaton col. 5 lines 38-54).

Deaton **specifically requires local customer databases**:

> Moreover, because the transactional data is generated and **maintained locally**, it provides significant information about **the store's customers** over and above the information necessary for verification risk management. New customers are readily identified, and prior shopping history such as frequency and dollar volume information may be used to establish customer profiles and to target advertising, marketing and promotional programs, and for other customer relations purposes.

Deaton, col. 6 lines 26-35 (emphasis added). Deaton specifically states that a **local customer database** is an important feature and advantage of the system (Deaton, col. 6 line 62 through col. 7 line 2).

Deaton addresses a multiple store business scenario, but **not one in which multiple independent businesses** may implement the system:

> In the case of a multiple store business, **each store has a local transaction processing system**, with one of the systems being designated a host site and the rest being designated remote sites. At selected intervals, each remote system transmits to the host selected customer information from its local customer database (such as customer records for those customers with CAUTION and NEGATIVE status including transactional data), which is used to update the host customer database to include this global customer information. The host, in turn, transmits that global customer information to the other remote systems.

Deaton, col. 6 lines 36-46 (emphasis added).

In this embodiment, there are multiple individual local
databases, with one of them designated a host site and the
others as remotes. Information is sent from the remotes to the
host, and then that host information is sent to the other remote
databases. This complicated multiple-database synchronization
scenario is not what the Applicant has claimed as explained
further below.

Claim 1 as amended herein recites that a reward point account
database is provided in a central reward server operating in
association with the card network. The central reward server
enables a plurality of independently operating merchants to each
have a plurality of individual user reward point accounts stored
in said reward point account database and associated with said
independently operating merchant. Deaton does not provide for a
central reward server with a multiple-merchant database as
claimed – rather, Deaton uses multiple individual store-based
databases that must be periodically synchronized with each
other. In addition, this multiple-store environment does not
appear to allow for independent merchants to interoperate with a
central reward server as claimed – it is simply a single-owner
business with multiple stores that would be able to synchronize
their information. Such a synchronization methodology would not
operate with multiple independent businesses, but the claimed
central reward server and multiple merchant database will solve
this problem. That is, the central reward server is able to
track reward point information in separate accounts for each
merchant and user, as explained in the Applicant's
specification:

> ***For example, the Smith Pizzeria will advertise that a***
> ***$100 purchase will yield 100 "Smith Pizza Points" for***

a purchaser. The merchant here is able to provide this feature without having to establish an expensive infrastructure (i.e. sever computers, administrators, etc.) as in the prior art. Likewise, it is able to award its own branded loyalty points as not seen before in the prior art (rather than simply distributing airline points or hotel points). In addition, the system may be configured so that the credit card network operator that operates the central server (e.g. VISA or MASTERCARD) is co-branded with the local merchant awarding the loyalty points. Thus, the loyalty points may be referred to as "Smith's Pizza/ VISA Points", or "BLOCKBUSTER/VISA Points", or "GAP/VISA Points", etc.

The merchant is thus able to leverage its pre-existing contractual relationship with the acquiring bank and the credit card network, and either the central server (in one embodiment) or the acquiring bank (in another embodiment) will keep track of the loyalty points awarded by the merchant to all of its customers. ***Similarly, hundreds or thousands of similar accounts with other merchants will be kept track of in the same manner.***

The maintaining of these merchant loyalty points may be undertaken by ***storing user and merchant account information in a database associated with the central server*** as shown in Figure 12. Thus, Figure 12 illustrates a simple database format wherein ***each merchant and user under that merchant has a record which indicates how many points are in the account***, as well as other optional information (such as par value of points, restriction on use, etc.) The format of the storage of the information is unimportant and may take many forms as well know in the art of relational and other types of databases. A simple transaction log may keep information on each transaction processed by the acquiring and issuing banks; this log may be easily modified to include loyalty point information as well.

Specification, page 10 line 32 – page 12 line 5 (emphasis added). Thus, the central reward server has numerous reward point accounts for different users and different merchants ("the

central reward server enabling a plurality of independently operating merchants to each have a plurality of individual user reward point accounts stored in said reward point account database and associated with said independently operating merchant"). Deaton's system uses a *single local customer database* and does not teach or suggest the central reward server of this invention as claimed.

In addition, Deaton does not provide for the maintaining of reward point accounts in the central reward server as presently claimed. The information stored in the customer accounts of the Deaton reference is "prior shopping history" that enables Deaton to generate coupons or other incentives *at the point of sale or for later mailings* (col. 7, lines 40-60). This is qualitative data used to generate coupons. The Examiner "interprets coupons and other incentives to be equivalent to the Applicant's reward points". Applicant respectfully disagrees with this statement that has no basis, and maintains that the reward point accounts as presently claimed are not anticipated by the Deaton description of coupon generation based on prior shopping history.

Thus, claim 1 is not anticipated by Deaton and is in condition for allowance. Claim 2 depends from claim 1 and recites a method of redeeming reward points from a user reward point account with a redeeming merchant, which is a merchant that may not necessarily be the transacting merchant that initially awarded the reward points to the user. Claim 2 is also patentable for at least these reasons.

Claim 3 as amended depends from claim 1 and adds the limitations of establishing a reward point exchange account on the central

reward server; selecting reward points from each of a plurality
of user reward point accounts associated with different
independently operating merchants for exchange into the reward
point exchange account; and aggregating the selected reward
points into the reward point exchange account. The Examiner
asserts that "Deaton discloses his system being used with
multiple store businesses and an Event Manager Task that
implements system's activities and transfers customer data among
the stores". The Examiner also states that Deaton necessarily
includes establishing a reward point exchange account and
aggregating the selected reward points because "Examiner knows
of no other way to utilize reward points without establishing a
reward point exchange account. Therefore Examiner asserts that
Deaton inherently teaches establishing a reward point exchange
account". The Applicant respectfully disagrees with the
assumptions the Examiner makes.

First, the Examiner's interpretation of the multiple store
businesses as having Applicant's plurality of merchant reward
point accounts is incorrect. As explained above, the Deaton
reference has a single business with multiple stores, each
having its own local database with local customer information.
Deaton explains only that information from a customer account in
one store may be sent to the host database, and then that host
information is sent to the other remote databases. Applicant
has clarified in its claim 3 that the reward point accounts are
associated with different independently operating merchants. As
such, the reward points may then be exchanged (aggregated) into
the reward point exchange account.

> In a further embodiment, the user/purchaser may
> aggregate reward points from more than one loyalty

point account to increase his purchasing power. That is, *he may have dozens or even hundreds of similar reward accounts with the various merchants with which he does business*; such as hardware stores, movie theaters, car washes, video rental stores, gas stations, hotels, airlines, etc. Since any type of merchant that accepts a credit card such as VISA or MASTERCARD is empowered with a custom-tailored loyalty program (or a global universal network based rewards program) under this invention, there is virtually no limit to the number and type of loyalty accounts that a user may have.

Loyalty points aggregation is undertaken by an exchange server, which may be on the same computer as the central server that stores the loyalty point records for each merchant and user. The exchange server allows a user to view his loyalty points portfolio easily (such as on a web page), *it allows the user to manage the exchange of loyalty points from any of his individual merchant accounts into his exchange account,* and it allows the user to execute purchase transactions with his aggregated loyalty points. For example, user John Doe may establish an exchange account with VISA directly, and VISA will use his account number (with appropriate security procedures) to determine all of the loyalty database records on the central server. John Doe will not need to enter dozens or even hundreds of account numbers, since his loyalty accounts will be tied directly to his credit card number. Once the central exchange server obtains his loyalty points information from the various databases and separate accounts, it will generate a web page to display the account totals to the user. The user can then instruct the central exchange server to exchange points into his exchange account from selected accounts as desired. Consideration will be provided from the merchant to the central server that correlates to the number of points exchanged. So, for example, if the user requests that 5,000 points be transferred from his Smith Pizzeria loyalty account to his VISA exchange account, then the Smith Pizzeria account will be reduced by 5,000 points and the acquiring bank will transfer $50 (minus a merchant exchange fee) to the VISA server. The Smith Pizzeria acquiring bank will invoice the merchant by the reduced amount, which may

> for example be $30. The purchaser will no longer be
> able to obtain a direct loyalty discount for those
> points with the merchant since he has exchanged them
> into his central account. (He may still be able to
> redeem his exchange points with that merchant as part
> of a network-based transaction, described below).

Specification, page 16 line 21 through page 18 line 4 (emphasis added). This is clearly different from having multiple stores in the same business with separate databases that are synchronized with each other, since **there is no central reward point exchange account in Deaton** – just multiple individual databases that must synchronize with each other. Deaton's system will result in the various local database each having the same information (after synchronization) – which is not the same as exchanging reward points from various merchant accounts into a single exchange account. In Applicant's claimed method, the exchange account has **different reward point totals** than the separate reward accounts since the points are traded/exchanged into that exchange account, while in Deaton, the local databases will end up with the **same information.** The Examiner has no basis for surmising that the Deaton system must have an inherent exchange account but this is not the case since Deaton intends on having multiple local databases to each have the same information, while the reward exchange account as claimed will have different point totals than the separate merchant reward accounts. This underscores the difference between reward points in reward points accounts as presently claimed and simple qualitative marketing information that is shared amongst various local databases as in Deaton. There is **no reason** for the Deaton system to have a reward point exchange account and the Examiner's statement that there must be one in there somewhere is incorrect. Thus, claim 3 is in condition for allowance.

15

Claims 4-10 depend from claim 3 and are also allowable for at least these reasons.

New claims 22 recite limitations on the redemption process of claim 2 in which reward points are used as complete consideration for the purchase (claim 21) and partial consideration for the transaction (claim 22).

Applicant thus submits that the entire application is now in condition for allowance, early notice of which would be appreciated. Should the Examiner not agree with the Applicants' position, a personal or telephonic interview is respectfully requested to discuss any remaining issues and expedite the eventual allowance of this application.

Respectfully submitted,

/arbarkume/

Anthony R. Barkume
Attorney for Applicant
Reg. No. 33,831

February 14, 2008
20 Gateway Lane
Manorville, NY 11949
(631) 259-9099